IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 66 of 2005

1. Smt. Sharda Rawat,
   W/o Sri Surender Singh Rawat alias Mahender Singh Rawat,
   D/o Sri Man Bahadur.
2. Km. Kavita D/o Sri Surender Singh Rawat.
3. Km. Prabha D/o Sri Surender Singh Rawat.
   All 1 to 3 R/o Village Naya Gaon,
   Vijaypur, Hathi Barkala, P.O. Anaarwala,
   P.S. Garhi Cantt., Dehradun. … Appellants

Versus

1. Sri Bhim Bahadur S/o Sri Man Bahadur,
   R/o 35 Park Road, Dehradun.
2. Dr. B.B. Shahi Thakur S/o Sri G.S. Thakur,
   R/o Ashkote House, Shashi Villa,
   23/96 Kishanpur Gaon, P.O. Rajpur,
   District Dehradun.
3. The Oriental Insurance Company Ltd.,
   through its Divisional Manager,
   47 Rajpur Road, Dehradun. …. Respondents

Mr. H.M. Bhatia, Advocate for the appellants.
None for respondent No. 1.
Mr. Jagdish Singh Bisht, Advocate on behalf of Mr. Sharad Sharma, Advocate for respondent No. 2.
Mr. T.A. Khan and Ms. Farida Siddiqui, Advocates for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

This is claimants' appeal for enhancement of the compensation awarded by Motor Accident Claims Tribunal / Addl. District Judge, Dehradun vide Award dated 08.11.2004 passed in Motor Accident Claim Petition No. 179 of 1999.

2. The claimants, who are unfortunate mother and younger sisters of deceased Km. Savita, claimed compensation of Rs. 3,24,000/- for her death in the motor accident on 08.09.1999 when the Bus bearing registration No. URN-9405, in which she was coming from her

college to her house, met with an accident due to the rash and negligent driving of its driver and overturned resulting in multiple serious injuries to Km. Savita, who succumbed to those injuries the same day. The claimants pleaded that Km. Savita used to earn Rs. 2,000/- per month from tuition.

3. The owner and insurer of the Bus contested the claim and denied their liability to pay compensation to the claimants. The owner took the plea that the driver was not responsible for the accident, whereas the insurer pleaded that the driver of the Bus was not holding a valid driving license.

4. The claimants examined PW1 Meenakshi Lama, PW2 Smt. Sharda Rawat and PW3 Mukesh Saxena in support of their claim, whereas the owner of the Bus examined DW1 B.B. Shahi and DW2 Jagdish Singh Rawat.

5. The Tribunal, on a close scrutiny of the evidence led by the parties, held that Km. Savita died on account of the injuries sustained by her in the motor accident on 08.09.1999; the accident occurred due to the rash and negligent driving of the driver of the Bus; and the insurer of the Bus was liable to pay compensation to the claimants.

6. The Tribunal assessed the income of the deceased at Rs. 1,500/- per month and Rs. 18,000/- per annum. By deducting 1/3rd of the said amount as the personal expenses of the deceased, the claimants' dependency was assessed at Rs. 12,000/- per annum. By multiplying the annual dependency of Rs. 12,000/- with the multiplier of '10', the compensation was worked out to Rs. 1,20,000/-. The Tribunal awarded Rs. 2,000/- towards Funeral Expenses and Rs. 2500/- for Loss of Estate and thus, a total sum of Rs. 1,24,500/- was awarded as compensation to the claimants for the death of Km. Savita in the motor accident. The Tribunal, further, directed the insurer of the Bus

to pay interest at the rate of 6% per annum from the date of the claim petition.

7. Mr. H.M. Bhatia, the learned counsel for the appellants submitted that the Tribunal has erred in not accepting the claimants' evidence about the income to the deceased and in assessing her income at Rs. 1,500/- per month and Rs. 18,000/- per annum only; in selecting the lower multiplier of '10'; and in awarding low compensation of Rs. 1,24,500/- only.

8. Mr. T.A. Khan, the learned counsel for respondent No. 3 Oriental Insurance Company Ltd., on the other hand, supported the Award and submitted that as the claimants could not establish the income of the deceased as pleaded by them, the Tribunal was left with no other option but to assess her income on its own estimate.

9. Mr. Jagdish Singh Bisht, the learned counsel for respondent No. 2, the owner of the Bus, also supported the Award.

10. The findings recorded by the Tribunal that deceased Km. Savita died on account of the injuries sustained by her in the motor accident on 08.09.1999; the accident occurred due to the rash and negligent driving of the driver of the Bus; and the insurer of the Bus was liable to pay compensation to the claimants have, now, attained finality as the respondents have not filed any appeal against the Award.

11. Km. Savita was aged about 17-18 years on the date of the accident. The assessment of income by the Tribunal at Rs. 1,500/- per month and Rs. 18,000/- per annum requires reconsideration, as the same is on the lower side. Even if the income of the deceased was to be assessed on the basis of the 'notional income', the same could not have been less than Rs. 2,000/- per month and Rs. 24,000/- per

annum. The ‘notional income’ of Rs. 15,000/- was prescribed in the Second Schedule in the year 1994 and if the erosion in the purchase value of the rupee, during the period between 1994 to 1999 is taken into consideration, the notional income of Rs. 15,000/- in the year 1994, would, in the year 1999, come to Rs. 24,000/-. We, therefore, propose to re-compute the compensation taking the income of the deceased at Rs. 2,000/- per month and Rs. 24,000/- per annum.

12. By deducting 1/3rd of Rs. 24,000/- as the personal expenses of the deceased, the claimants’ dependency is assessed at Rs. 16,000/- per annum.

13. The multiplier of ‘10’ selected by the Tribunal, in view of the dictum of the Apex Court in the case of **Municipal Corporation of Greater Bombay Vs. Laxman Iyer and anothe**r reported in **(2003) 8 SCC 731,** appears to be appropriate.

14. By multiplying the annual dependency of Rs. 16,000/- with the multiplier of ‘10’, the compensation works out to Rs. 1,60,000/-. The claimants are further entitled to receive Rs. 5,000/- towards Funeral Expenses and Rs. 5,000/- towards Loss of Estate. Thus, the claimants become entitled to receive a total sum of Rs. 1,70,000/- as compensation for the death of Km. Savita in the motor accident on 08.09.1999.

15. On the enhanced amount of Rs. 45,500/-, we deem it proper to award interest of Rs. 4,500/-.

16. Thus, the claimants are entitled to receive a further sum of Rs. 50,000/- (Rupees Fifty Thousand only) [Rs. 45,500/- towards enhanced amount of compensation + Rs. 4,500/- towards Interest on the enhanced amount of compensation).

17. For the foregoing reasons, the appeal filed by the appellants under Section 173 of the Motor Vehicles Act for enhancement of the compensation is allowed in part. The compensation of Rs. 1,24,500/- (Rupees One Lakh Twenty Four Thousand and Five Hundred only) awarded by the Tribunal is enhanced to Rs. 1,70,000/- (Rupees One Lakh and Seventy Thousand only) with further quantified interest of Rs. 4,500/- (Rupees Four Thousand and Five Hundred only) on the enhanced amount of compensation. Respondent No. 3 Oriental Insurance Company Ltd. is directed to deposit the enhanced amount of compensation of Rs. 45,500/- and Rs. 4,500/- quantified as Interest on the enhanced amount of compensation (total Rs. 50,000/-) within a period of two months from today before the concerning Claims Tribunal.

18. No order as to costs.

(J.C.S. Rawat, J.) 14.11.2006

(Rajeev Gupta, C. J.) 14.11.2006

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